

**House Study Bill 160 - Introduced**

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
HEALTH AND HUMAN SERVICES  
BILL BY CHAIRPERSON MEYER)

**A BILL FOR**

1 An Act relating to compensation discussions regarding adverse  
2 health care incidents.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 135P.5 Demand for policy limits —  
2 prima facie evidence of bad faith.

3 1. If a health care provider or health facility makes an  
4 offer of compensation under section 135P.3, subsection 3,  
5 paragraph "d", subparagraph (2), the health care provider or  
6 health facility shall provide the patient with the contents  
7 of any insurance agreement under which any person carrying on  
8 an insurance business may be liable to satisfy part or all  
9 of a judgment which may be entered in any civil action or  
10 to indemnify or reimburse for payments made to satisfy any  
11 judgment entered in any civil action filed by the patient  
12 against the health care provider or health facility, including  
13 a copy of any insurance declaration page showing the limits of  
14 insurance that may be available to the patient to satisfy any  
15 settlement or judgment relating to the patient's injuries and  
16 damages. The health care provider or health facility shall  
17 also include a copy of any declarations page providing primary  
18 professional liability coverage as well as any applicable  
19 umbrella coverages.

20 2. If, at the end of the compensation discussion, the  
21 patient has made a demand for an amount that is less than or  
22 equal to the applicable policy limits, and the health care  
23 provider or health facility consents in writing to the payment  
24 by the insurance carrier of the demand, then the insurance  
25 carrier identified in any insurance agreement or declarations  
26 page produced under subsection 1 shall respond in writing to  
27 the patient's demand within thirty days of receipt. If the  
28 insurance carrier refuses to pay the demand and the patient  
29 subsequently receives a verdict or judgment against the health  
30 care provider or health facility in an amount exceeding the  
31 applicable policy limits, then notwithstanding section 135P.2,  
32 the patient's demand for an amount that was less than or equal  
33 to the applicable policy limits, the health care provider or  
34 health facility's consent, and the insurance carrier's refusal  
35 to pay shall be discoverable and admissible in any subsequent

1 action against the insurance carrier for bad faith.

2 3. If the requirements of subsections 1 and 2 have been met  
3 and if a bad-faith action is filed against an insurance carrier  
4 for failure to pay a demand under subsection 2, then there  
5 shall be a rebuttable presumption of bad faith against the  
6 insurance carrier and in favor of the health care provider or  
7 health facility. Any subsequent verdict amount entered against  
8 an insurance carrier for bad faith under this subsection shall  
9 not be used by the insurance carrier to increase premiums  
10 charged to the insured health care provider, the insured health  
11 facility, or the health care industry as a whole.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with  
14 the explanation's substance by the members of the general assembly.

15 This bill relates to compensation discussions regarding  
16 adverse health care incidents.

17 Under Code chapter 135P, a health care provider, a health  
18 facility, or a health care provider jointly with a health  
19 facility, may engage in an open, confidential discussion with a  
20 patient related to an adverse health care incident.

21 The bill provides that if a health care provider or health  
22 facility makes an offer of compensation, the health care  
23 provider or health facility shall provide the patient with the  
24 contents of any insurance agreement under which any person  
25 carrying on an insurance business may be liable to satisfy  
26 a judgment. If at the end of the discussion, the patient  
27 and health care provider or health facility have reached an  
28 agreement for an amount equal to or less than that of the  
29 insurance policy limits, then the insurance carrier has 30  
30 days to respond in writing to the agreed-upon demand. If the  
31 insurance carrier refuses to pay and the patient receives a  
32 subsequent verdict or judgment against the health care provider  
33 or health facility that exceeds the policy limits, then the  
34 health care provider or health facility's consent and insurance  
35 carrier's refusal is discoverable and admissible in any

1 subsequent action against the insurance carrier for bad faith.  
2 The bill provides that if the discussion contents become  
3 discoverable, there shall be a rebuttable presumption of bad  
4 faith against the insurance carrier and in favor of the health  
5 care provider or health facility. Any subsequent verdict  
6 amount against the insurance carrier for bad faith cannot  
7 be used to increase the premium charged to the health care  
8 provider, health facility, or health care industry as a whole.